

**IN THE COURT OF APPEALS OF IOWA**

No. 3-1020 / 13-0589  
Filed January 9, 2014

**IN RE THE MARRIAGE OF CHRISTOPHER KENNETH  
LOBDELL AND ANDREA LYNN LOBDELL**

**Upon the Petition of  
CHRISTOPHER KENNETH LOBDELL,**  
Petitioner-Appellee,

**And Concerning  
ANDREA LYNN LOBDELL,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Benton County, Douglas S.  
Russell, Judge.

A wife appeals from the economic provisions of the parties' dissolution  
decree. **AFFIRMED AS MODIFIED.**

Ronald L. Ricklefs and Joseph G. Bertroche, Cedar Rapids, for appellant.  
John C. Wagner of John C. Wagner Law Offices, P.C., Amana, for  
appellee.

Considered by Danilson, C.J., and Vaitheswaran and Potterfield, JJ.

**DANILSON, C.J.**

Andrea Lobdell appeals from the economic provisions of the parties' dissolution decree. On appeal, she contends the district court's division of the parties' assets and liabilities was inequitable. She asks that we reduce the amount Christopher Lobdell was awarded of her 401(k) retirement account and he be obligated to pay more of the marital debt incurred prior to separation. Because we find the district court's distribution was inequitable, we affirm as modified.

**I. Background Facts and Proceedings.**

Andrea and Christopher were married on November 25, 2005. The parties had no children together and neither requested spousal support. The primary issues at the dissolution proceeding, which took place on September 5, 2012, involved the division of marital assets and debts.

At the time of trial, Andrea was forty-five-years old and Christopher was forty-eight-years old. Both parties were in generally good health and capable of working full-time. At the time the couple married, both Christopher and Andrea were employed by Quaker Oats. Christopher had his highest earning year in 2010, when he earned approximately \$90,000. However, he was terminated in March 2011 following violations of Iowa Code chapter 236 (2011) no contact order. Very little was presented regarding Christopher's income at the time of the dissolution proceedings, but the district court projected his 2012 income to be approximately \$60,000. Andrea's annual income at the time of the proceedings was approximately \$90,000.

Christopher brought into the marriage an automobile,<sup>1</sup> a snowmobile,<sup>2</sup> some furniture, and some tools, which he had received from his father and grandmother.<sup>3</sup> He also brought \$10,600 in debt in the form of back child support and unpaid taxes. Andrea brought her home and considerable personal property into the marriage. She testified she did not have any credit card debt and had a zero balance on her line of credit at Wells Fargo. Andrea also had a 401(k) worth \$51,622 at the time the parties married.

During the marriage, both Andrea and Christopher contributed to retirement accounts. Christopher accumulated \$26,305 and Andrea's gained \$66,310 in value. After the petition for dissolution was filed, Christopher closed out his account and only \$8000 remains. Similarly, Andrea took a \$21,347 loan from her account. This left her account with a net balance of \$96,635 at the time of the proceedings.

As the district court noted, "[d]uring the marriage, the parties enjoyed a comfortable lifestyle with both contributing . . . to the family economy." However, the parties lived beyond their means and acquired a considerable amount of debt before the dissolution proceedings. In the dissolution decree, filed February 4, 2013, the district court divided the parties' debts and assets as follows:

The following property is awarded to Christopher: marital share of Andrea's 401(k), \$33,155; his 401(k) balance, \$8,000; 2010 Ford Fusion automobile, \$107;<sup>4</sup> 2008 Arctic Cat snowmobile, \$1,430; snowmobile trailer, \$200; Kirby vacuum, \$600; all tools and

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<sup>1</sup> Both parties testified Christopher gave this automobile to his son during the marriage.

<sup>2</sup> Christopher testified the snowmobile was "parted out" during the marriage.

<sup>3</sup> Christopher estimated the tools he brought into the marriage were worth \$2400.

<sup>4</sup> For purposes of our review, we value the 2010 Ford Fusion awarded to Christopher at \$18,000, as each of the parties did in their financial affidavits.

equipment on Exhibits 4 and 5, \$8,000; 1/2 of TV sets and Blu-ray players (her choice); Corelle dishes (premarital); one butcher block knife set (his choice); one Hard Rock Cafe glass (his choice); 1/2 of DVDs (parties to cooperate in dividing or copying); computer desk from master bedroom; his album collection on Exhibit 5; photo frame from master bedroom on Exhibit 5; computer components from spare bedroom on Exhibit 5; Crosley stereo; 100% of replacement value of jewelry, \$10,445; all bank accounts in his name; such other personal property in his possession not awarded to Andrea in this Decree.

The following property is awarded to Andrea: her share of her 401 (k), \$63,480; 1966 Ford Fairlane \$500; 2009 Chevy Malibu, \$7,051; 1997 Yamaha snowmobile (premarital); 2003 F-7 Arctic Cat snowmobile (premarital); parachute, \$3,000; 2000 Honda ATV (premarital); 2000 Doolittle trailer (premarital); 2001 Sprinter camper, \$4,760; lawn mower (premarital); snow blower (premarital); ball hitch (premarital); weight set and weight bench in Exhibit 4; 1/2 of TV sets and Blu-ray players (her choice); all equity and ownership rights in Mexican condo, \$3,075; one Hard Rock Cafe glass (his choice); one butcher block knife set (his choice); 1/2 of DVDs (parties to cooperate in dividing or copying); all bank accounts in her name; such other personal property in her possession not awarded to Christopher in this Decree.

The following debts are assigned to Christopher: child support arrearage, back taxes owed, student loan (all premarital or is sole obligation); Ford Fusion debt, \$18,000; F-6 Arctic Cat debt; \$1,476; Capital One (his), \$2,198; One Main Financial, \$7,092; Orchard Bank, \$262; 1/2 of Wells Fargo judgment, \$10,871; any other debts in his own name and any indebtedness incurred since separation.

The following debts are assigned to Andrea: Chevy Malibu Debt (post-separation arising from sale of F-250 and HD), \$7,051; Capital One (hers), \$1,442; Discover 4573, \$20; Discover 8992, \$4,799; GM card, \$3,232; VISA Signature card, \$3,694; 1/2 of Wells Fargo judgment, \$10,871; 100% of Collins Community Credit Union debt, \$20,596;<sup>[5]</sup> and any other debts in her own name and any indebtedness incurred since separation.

On appeal, Andrea contends both the property distribution and the debt allocation are inequitable.

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<sup>5</sup> Andrea later filed a motion for modification of the dissolution decree in which she stated, among other things, no Collins Community Credit Union debt existed.

## II. Standard of Review.

We review dissolution cases de novo. *In re Marriage of Sullins*, 715 N.W.2d 242, 247 (Iowa 2006). “Although we decided the issues raised on appeal anew, we give weight to the trial court’s factual findings, especially with respect to the credibility of witnesses.” *In re Marriage of Witten*, 372 N.W.2d 768, 773 (Iowa 2003); see also Iowa R. App. P. 6.904(3)(g).

## III. Discussion.

The ultimate goal of the property division is to divide all property equitably between the parties. See Iowa Code § 598.21(5). “Equitable distribution depends upon the circumstances of each case.” See *In re Marriage of Hansen*, 733 N.W.2d 683, 702 (Iowa 2007). An equitable division is not necessarily an equal division. *In re Marriage of Anliker*, 694 N.W.2d 535, 542 (Iowa 2005).

On appeal, Andrea contends the district court’s division of the parties’ assets and debts was inequitable. She asks that we hold Christopher responsible for more of the parties’ debt and reduce his share of her 401(k) retirement account accordingly.

We agree the district court’s distribution of assets was inequitable. Andrea’s premarital net worth was \$56,600<sup>6</sup> while Christopher, by his own testimony, brought approximately \$10,600 in debt into the marriage. Pursuant to the property distribution within the dissolution decree, Andrea’s net worth

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<sup>6</sup> For purposes of our review, we disregard any possible equity in the home while considering premarital property and determining appropriate distribution, except for the personal judgment against the parties. In light of economic factors that arose during the parties’ marriage and the subsequent foreclosure and personal judgment against them, we conclude there was never any significant equity in the home.

decreased during the marriage to \$48,720.<sup>7</sup> Meanwhile, Christopher's net worth increased by almost \$50,000. "Where, as here, there is a wide disparity between the assets of the parties at the time of the marriage, the length of the marriage is a major factor in determining the respective rights of the parties at the time of the dissolution." *In re Marriage of Dean*, 642 N.W.2d 321, 326 (Iowa Ct. App. 2002). This marriage was of relatively short duration. Also, it appears the district court made a simple mathematical error when figuring the respective shares of the parties.

At the time the parties married, Andrea had a 401(k) worth \$51,622 and Christopher did not have one. During the marriage, Christopher began his own 401(k) and was able to accumulate \$26,305. Sometime in 2011, Christopher cashed out and spent \$18,305 from his 401(k), leaving \$8000 at the time of trial. Similarly, Andrea borrowed \$21,347 from her own fund. The district court stated each party's loan against their 401(k) were "very similar" and "in effect, a wash." However, when dividing the marital value of Andrea's 401(k), the court used the balance existing before the loan was taken rather than the net balance at the time of the dissolution trial.<sup>8</sup> The balance of Andrea's 401(k), less the amount of the loan, was \$96,635 at the time of trial, an increase of \$45,013 from the pre-marital amount. The parties' combined increase in value after their respective loan or withdrawal was \$53,013. Each party should share equally the \$53,013 increase in their 401(k) accounts except as we further explain.

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<sup>7</sup> These calculations do not include the \$20,596 debt due to Collins Community Credit Union as Andrea acknowledged it does not exist.

<sup>8</sup> The court used \$117,982.71 as the amount in Andrea's 401(k).

In our de novo review, we also conclude Christopher should be obligated to reimburse Andrea for one-half of the monies she paid toward the parties' joint marital debts during the period of separation. She paid \$6814 towards various credit card debts during the parties' separation. The district court gave her no credit for these payments. Andrea's motion pursuant to Iowa Rule of Civil Procedure 1.904(2)<sup>9</sup> specifically noted that her loan against her 401(k) account was used to pay joint marital expenses during the separation. Accordingly, Christopher shall reimburse Andrea one-half of this sum, or \$3407, via a reduction in his share of Andrea's 401(k) account.

In sum, Christopher is awarded the remaining \$8000 of his 401(k) account if it still exists. He shall also be entitled to \$15,099 of Andrea's 401(k) account. Christopher's one-half share of the increase in the 401(k) accounts is reduced by the remaining \$8000 of his 401(k) account as well as the sum of \$3407 for the debt reimbursement. As a result, his share of Andrea's account is \$15,099.<sup>10</sup>

Thus, we modify the district court's decree by awarding Christopher \$15,099 of Andrea's 401(k). Andrea is awarded the remaining balance of her

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<sup>9</sup> Iowa Rule of Civil Procedure 1.904(2) states:

On motion joined with or filed within the time allowed for a motion for new trial, the findings and conclusions may be enlarged or amended and the judgment or decree modified accordingly or a different judgment or decree substituted. But a party, on appeal, may challenge the sufficiency of the evidence to sustain any finding without having objected to it by such motion or otherwise. Resistances to such motions and replies may be filed and supporting briefs may be served as provided in rules 1.431(4) and 1.431(5).

<sup>10</sup> The district court awarded Christopher one-half of his remaining \$8000 as well as \$33,155 of Andrea's account for a total of \$37,155. Our modification results in Christopher receiving his \$8000 plus \$15,099 from Andrea's account for a total of \$23,099.

account. Christopher is also awarded the \$8000 remaining funds from his 401(k) account.

Upon our review of the allocation of the marital debt incurred by the parties prior to their separation, we find no other inequity except as provided herein.

For all reasons stated, we affirm the district court as modified. Costs of appeal are assessed to Christopher.

**AFFIRMED AS MODIFIED.**